IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 115 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHUKLA SUDHABEN KIRITBHAI - Applicant(s)
Versus
THAKKAR VIJAYKUMAR B & 1 - Respondent(s)

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Appearance :

MR HM PARIKH for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MR MEHUL H RATHOD for Respondent(s) : 1,
Mr. Pandya, Addl.PUBLIC PROSECUTOR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/10/2007
ORAL JUDGMENT

By way of this application under Section 397 of the Code of Criminal Procedure the applicant original-complainant has prayed for an

appropriate order to quash and set aside the order passed by learned JMFC, Kadi issuing show cause notice under Section 250 of the Code of Criminal Procedure against the applicant.

2. The applicant filed a private complaint being Criminal Complaint No. 409/1991 in the Court of learned JMFC, Kadi against the opponent No.1 herein for the offence under Section 323, 355, 504 of the Indian Penal Code and the learned Magistrate by judgment and order dated 28th February 1996 dismissed the said complaint acquitting respondent No.1 herein, original-accused of the offences under Section 323, 355 read with Sec. 504 of the IPC. As the learned JMFC, Kadi was of the opinion that a false complaint was filed by the petitioner against the respondent No.1 the learned Judge was of the prima facie opinion to initiate proceedings under Section 250 of the Cr.P.C., and therefore while acquitting the respondent No.1 herein original-accused issued the show cause notice upon the

petitioner original-accused to show cause why order of compensation should not be passed in favour of respondent No.1 herein as contemplated under Section 250 of the Cr.P.C.

3. Section 250 of the Code of Criminal Procedure provides that, “If any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is

not present, direct the issue of a summons to him to appear and show cause as aforesaid. Sub-section (2) of Section 250 provides that “The Magistrate shall record and consider any cause which such complainant or information may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or information to the accused or to each or any of them.” Thus, considering sub-section (2) of Section 250, while passing the order of compensation the Magistrate is required to consider any cause which such complainant or informant may show after the show cause notice is issued and only thereafter if he is satisfied that there was no reasonable ground for making accusation the learned Magistrate may for the reasons to be recorded make an order to pay compensation to the accused. Under the

circumstances ample opportunity is given to the petitioner to show cause and satisfy the learned Magistrate that there was sufficient and/or reasonable ground for making the accusation against the accused persons and if the learned Magistrate is satisfied, in that case he may not pass any order for compensation. Under the circumstances, when only a show cause notice has been issued by the learned Magistrate calling upon the petitioner to show cause why the order to pay compensation should not be passed, no prejudice has been caused to the petitioner and as stated above ample opportunity will be given to the petitioner. Therefore no case is made out to interfere with the order passed by the learned Magistrate in issuing the show cause notice under Section 250 of the Cr.P.C., in exercise of revisional jurisdiction. Hence the application deserves dismissal and is accordingly dismissed. Rule is discharged. Ad-interim relief stands vacated forthwith.

Rmr. [M.R. Shah, J.]